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SUBJECT: NETHERLANDS/AFGHANISTAN: GOING PUBLIC ON CHORA
CASUALTY REPORTS

Classified By: CDA Michael Gallagher, reasons 1.4 (b,d)

11. (S) Summary: In its monthly Afghanistan update letter sent to Parliament on September 24, the GONL described four separate reports regarding possible civilian casualties related to the June 16-20 heavy fighting in and around Chora.

The GONL letter acknowledged COMISAF's opinion that the use of armored howitzers without directly identifying military targets was not in accordance with the Law of Armed Conflict (LOAC), but emphasized that SACEUR and NATO Secretary General de Hoop Scheffer disagreed with COMISAF's conclusions. Additionally, the letter stresses that the investigations by UNAMA and the Afghan Independent Human Rights Council (AIHRC), the Afghan government, and the after-action report by the Dutch military all assert that the Dutch Commander of Task Force Uruzgan (CTFU) acted in self-defense and in accordance with the LOAC and NATO rules of engagement (ROE). Privately, GONL officials said they had little confidence COMISAF's report would remain confidential and sought to "preemptively" address COMISAF's findings. Dutch press has factually reported on Dutch CHOD Gen. Berlijn's press conference, which acknowledged the difference of opinion between COMISAF and the other three investigations, but did not specify COMISAF's finding that the Dutch had violated international humanitarian law. End summary.

Letter to Parliament

12. (C) The 21-page monthly update on the Dutch deployment to Afghanistan includes capsules on PM Balkenende's and Development Minister Koender's recent trips to Afghanistan, the status of reconstruction and development in Uruzgan province, and a security assessment on the increased fighting near Deh Rawood in southwest Uruzgan. The letter notes that deploying additional troops to Deh Rawood may be a necessity, and two platoons have been placed on "stand-by" alert as a result.

13. (C) The last six pages of the letter involves an exhaustive analysis of the Dutch fighting in Chora from June 16-20, including an explanation why the CTFU decided to call in air and artillery support to prevent being overrun by superior enemy numbers. The addendum addresses civilian casualties resulting from the heavy fighting, noting difficulty in determining the number of casualties resulting

from atrocities by the Taliban and those from Dutch action.

¶4. (C) The letter addendum also details the findings of four investigations -- the Dutch military operational report, UNAMA and the AIHRC, the Afghan government, and COMISAF -- following the fighting in Chora. According to the letter, the investigations found that the decision to defend Chora was within ISAF's mandate, and that the use of force by ISAF was permitted under the right to self-defense and the rules of engagement. The letter notes, however, that the COMISAF investigation differs from the other three in that COMISAF argues the use of artillery without direct identification of targets violates the law of armed conflict as insufficient distinction can be made between military targets and civilian objects.

¶5. (C) The letter makes clear that SACEUR and NATO Secretary General de Hoop Scheffer disagree with COMISAF's findings, noting that there were no indications the CTFU had acted incorrectly within the context of the right to self-defense, and that the factual information does not support COMISAF's conclusion that the CTFU had violated the law of armed conflict. Moreover, the Dutch military operational report notes that the CTFU issued warnings to the local population before using air or artillery support; the Afghan government and UNAMA/AIHRC investigations support this assertion. The operational report also states that targets had been identified in advance whenever artillery was used, and that it was established with sufficient certainty that such targets will corresponded to military targets.

Press Coverage

¶6. (C) Dutch CHOD Gen. Berlijn gave a press conference on

September 24, focusing on the increased fighting in Deh Rawood, and the possible need to deploy additional troops. Berlijn did mention the results of the Chora investigations, noting that all four found Dutch actions justified, and that Dutch forces had acted "correctly" and within the parameters of their mandate. Berlijn pointed out that COMISAF disagreed with the other three regarding the use of artillery, but did not specifically note that COMISAF found such artillery use had violated the law of armed conflict. Finally, Berlijn expressed regret for the loss of civilian lives, noting that while many had been brutally killed by the Taliban, some had likely died as a result of ISAF actions.

¶7. (SBU) Thus far, the Dutch press for the most part has taken a pass on the COMISAF report, focusing more on the possibility of deploying additional troops in support of ISAF near Deh Rawood. The only Dutch newspaper with a substantial article on the discrepancy with COMISAF is the Volkskrant (center-left), which leads with the headline "Dutch Actions in Chora Justified." The article itself is balanced and factual in its reporting on the investigation.

GONL Reaction

¶8. (S) MFA Task Force Uruzgan Coordinator Pieter Jan Kleiweg told polmiloff September 25 that the GONL was "thrilled" thus far with the way the COMISAF report has played out in the public. He said that by including it in the report, the GONL can point out it was not withholding information on the Chora investigations. He also acknowledged that the generally negative tone of the letter was "no coincidence," while coupling the report with the possibility of deploying additional support troops to Deh Rawood certainly helped distract the press. He emphasized, however, that the GONL was not yet "out of the woods," especially as GONL officials will be required to appear before a parliamentary hearing in the near future to discuss the letter. Kleiweg said there was enough information in the letter for parliamentary opposition leaders to make an issue of the COMISAF report, should they choose to pursue it.

Comment

19. (S) By citing the COMISAF report in a public document to parliament, albeit buried within twenty pages, the GONL is playing a risky game -- but, so far, it seems to be working. The Dutch press appears to be taking Gen. Berlijn at his explanation regarding the COMISAF discrepancy, but more attention may come once journalists finally read through the letter, which has now been posted on both the MFA and MOD websites, and which clearly states COMISAF's finding that the Dutch violated the law of war. It would be very surprising if some parliamentary opposition members do not come to the upcoming Afghanistan prepared to ask difficult questions, but the GONL appears confident it can handle whatever gets thrown at them.

Arnall